



IN CRIMINAL LAW, THE RIGHTS OF THE PRISONER

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ABSTRACT

Despite the fact that India is a civilised nation, it has failed to codify prisoners' rights. There are approximately 1400 jails in India, and without such restrictions, the rules exist only on paper, and many jail administrators also disregard them. The assumption is frequently made that inmates are uninformed of these rights and processes and that their rights are frequently violated without their agreement. V.R. Krishna Iyer (J) makes an accurate observation. Criminality is a terrible thing, and the purpose of criminal legislation is to keep it to a minimum. Historically, 'this' meant to accomplish it via harsh punishment of criminals. The concept acquired traction gradually, and the appropriate response should not be one of denunciation and suffocation. Rather than becoming a rapist, he will be rehabilitated and reintegrated into society. Among the numerous forms of punishment accessible in our criminal justice system, including fines, jail, and capital punishment, imprisonment provides the greatest potential for reform and rehabilitation. This research paper examines the circumstances of inmates in Indian jails, as well as abuses of their constitutional and human rights. Additionally, this essay would highlight why it is important to improve prisoner care and why protecting their human rights is critical. Additionally, the author would bring up the issue of fair pay for inmates and the implementation of labour regulations. Additionally, it will examine the judiciary's perspective on the issue and provide a decision about the improvement of inmates' conditions and the protection of their rights.

KEYWORDS: Criminal, Law, Legal, Prisoner.

INTRODUCTION:

Generally speaking, a "prisoner" is a person who has been imprisoned in a jail or prison for the purpose of committing a crime or acting in a manner that is prohibited by law. Whatever crime the prisoner has done, it has been proven that he is not a non-person and that he, like all other non-prisoners, is entitled to certain protections and privileges under the law. A consequence of this is that the inmates have been awarded some basic rights that they are unable to revoke. The rights, on the other hand, are not completely unlimited and are subject to a number of restrictions. In accordance with Section 1 of the Jail Security Act 1992, a prisoner is defined as "any individual who is currently imprisoned in a prison as a result of any obligation imposed by a court or otherwise that he be kept in legal custody." National Crime Records Bureau research has found that almost 68 percent of the country's 1400 jail populations are awaiting trial, and that over 40 percent of individuals awaiting trial remain in prison for more than six months before their bail is granted.

To give you an idea of the grave situation, jails are 250 percent overcrowded, and in violation of UN regulations, cells of 8X10 feet hold 21 people while they should ideally be 6X12 feet per inmate, according to UN rules. The inability to get bail, the use of brutal torture by the warden, the lack of proper food and clothes, and the prolonged incarceration of inmates in situations of pending trials are just a few of the difficulties that prisoners in India must contend with.

The development of infectious and non-contagious diseases such as HIV, TB, and other vector-borne diseases as a result of these problems, which exacerbates the situation because treatment choices are limited, particularly for the poorest inmates. Metalworker goes into great depth about the history of Indian jails and the following developments that have occurred (2006). The following is a succinct summary of what an equivalent might be. The Minute, a piece of writing by TB Macaulay published in 1835, is considered to be the precursor of the modern Indian prison. In 1838, a body known as the Prison Discipline Committee was established, and its report was submitted to the government. The group suggested tougher treatment for the inmates while simultaneously rejecting any humanitarian requirements and improvements for the detained individuals. According to the recommendations of the Macaulay Committee, Central Prisons were constructed between 1836 and 1838 in response to those suggestions.

INTERNATIONAL OBLIGATIONS AND GUIDELINES:

The International Covenant on Civil and Political Rights (ICCPR) has remained the most significant international convention for the protection of prisoners' rights, and it is now the most widely implemented. India signed the Covenant in 1979, and the country is now obligated to incorporate the Covenant's provisions into domestic law and government practise. ICESR (International Covenant on Economic, Social, and Cultural Rights) stipulates that prisoners have a legal right to the greatest physical and mental health attainable while in custody. In addition to civil and political rights, convicts are also entitled to the so-called second generation economic and social human rights, which are detailed in the International Covenant on Economic, Social, and Cultural Rights.

Former United Nations Standard Minimum Guidelines for the Treatment of Pris-

oners, which were issued in 1955 and are organised into five sections and comprise ninety-five regulations, are still in effect. It is possible to apply the laws in the first portion of the book in a number of scenarios. It says that "discrimination on the basis of race, colour, gender, sexual orientation, language, faith, political or other opinions, national or social origin, land, birth, or other status" is forbidden under the law. Respect for the religious beliefs and moral precepts of the community to which a prisoner belongs is essential at the same time. When it comes to jail offences and punishments, the basic minimum requirements are quite easy to understand. A prisoner cannot be prosecuted until he or she has been informed of the allegations levelled against him or her and has been given a reasonable chance to offer his or her defence, according to the law. As a method of discipline and disciplinary action within jails it is suggested that all "cruel, inhuman, or humiliating penalties must be completely forbidden," the report states.

RIGHTS OF PRISONERS:

As previously stated, a person's religious or philosophical beliefs do not transform him into anything else. He's still a person, and others should respect him as such. The same fundamental human rights should be accorded to him as to every other individual in the world. However, he should not be seen as a free man enjoying all of life's comforts. There should be restrictions and legal constraints on his freedom. These restrictions must also be reasonable.

McDonnell, the Supreme Court of the United States, and the Supreme Court of India, in decisions like as *DBM Patnaik v. State of Andhra Pradesh* and *Sunil Batra v. Delhi Administration*⁵, have both emphasised forcefully the fact that a prisoner is both a human being and a legal or natural person. Getting a criminal conviction doesn't turn you into a non-person whose rights can be revoked at the mercy of the prison authorities. Since there are no institutional safeguards, the imposition of harsh punishments in jail is impossible.

RIGHTS OF THE PRISONERS GRANTED UNDER CONSTITUTION OF INDIA:

Following are the rights of prisoners which are implicitly provided under the Article 21(1) & (2) of the Constitution of India:-

- Right of inmates of protective homes
- Right to free legal aid
- Right to speedy trial
- Right against cruel and unusual punishment
- Right to fair trial
- Right against custodial violence and death in police lock-ups or encounters
- Right to live with human dignity

CONSTITUTION:

Prisoners have access to the rights provided in Part III of the Indian Constitution. Article 14 introduced the notion of reasonable categorization and the treatment of like. This part helps prison officials categorise convicts for rehabilitation purposes. The Indian constitution gives citizens six liberties, one of which is denied to convicts. Movement, residence and career freedom are the three freedoms. But the inmates have additional liberties granted by this article. Also, the constitution contains clauses that are not directly related to prisoner rights but may be important. Article 20(1), (2), 21 and 22 (4-7).

1. **The Prisons Act, 1894:** This act is India's first piece of law regulating prisons. Several significant provisions pertaining to prisoner's rights include the following:

Prisoners' housing and hygienic conditions.

Provisions pertaining to the mental and physical well-being of detainees.

Prisoners are examined by a trained medical officer.

Separation of male and female inmates, criminal and civil, convicted and awaiting trial.

Provisions for the treatment of criminal defendants, civil detainees, parolees, and convicts on temporary release.

2. **The Prisoners Act, 1990:** The government is responsible for transporting any prisoner held according to any court order or sentence who is of unsound mind to a lunatic hospital or other facility where he will get adequate treatment.

Any court that is a high court may, in cases where it has recommended to the government that a prisoner be granted a free pardon, release him on his own recognisance.

3. **The Transfer of Prisoners Act, 1950:** This legislation was created to facilitate the movement of convicts between states for rehabilitation or vocational training, as well as the transfer of prisoners from overcrowded jails to less congested jails within the state.

4. **The Prisoners (Attendance in Courts) ACT, 1955:** This Act provides provisions that allow for the transportation of convicts to a civil or criminal court for the purpose of delivering evidence or responding to a charge of an offence that has been laid against them.

CONCLUSION:

When inmates are held in detention, they should not be forced to give up their dignity. To prevent convicts from becoming victims of exploitation, the Supreme Court of India, as well as numerous other Indian courts, have reiterated this position in a number of cases. In addition, they are put in a positive rehabilitative atmosphere that will assist them in developing and becoming better individuals. The federal and state governments must not only provide convicts with decent living circumstances, but they must also educate them on their legal rights so that they are not infringed by those in positions of authority within the institution. When the legislative and executive branches of government make mistakes, it may be argued that the country's court has played a crucial role in protecting the rights of inmates and their families. Throughout its history, it has continuously acted as a rescuer for prisoners, defending their human rights. By engaging in judicial activism, it has asserted its authority and developed new remedies and instruments to defend people's rights to life and liberty on a consistent basis. There is, however, still considerable work to be done in this area. In this sense, widespread dissemination of human rights information to inmates, significant media coverage of prisoners, and round-the-clock surveillance in prisons may all be important factors in safeguarding prisoners' rights and guaranteeing their safety while incarcerated, respectively.

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